



Judiciary II - Criminal Law Committee

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LRB095 04122 RLC 32094 a

1 AMENDMENT TO HOUSE BILL 230

2 AMENDMENT NO. _____. Amend House Bill 230 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Personnel Code is amended by adding Section
5 8b.7-5 as follows:

6 (20 ILCS 415/8b.7-5 new)

7 Sec. 8b.7-5. Unjustly imprisoned preference.

8 (a) A person shall be qualified for a preference in
9 entrance examinations if: (i) he or she has been discharged
10 from a prison of this State; (ii) he or she has been wrongfully
11 accused of a crime for which he or she was imprisoned; and
12 (iii) a court of competent jurisdiction entered a declaratory
13 judgment finding that the accused was innocent of all offenses
14 for which he or she was incarcerated or the accused received a
15 pardon from the Governor stating that such pardon is issued on
16 the ground of innocence of the crime for which he or she was

1 imprisoned.

2 (b) The preference granted under this Section shall be in
3 the form of an entitlement to appear on the list of those
4 eligible for appointments, if the person otherwise qualifies
5 through testing.

6 (c) The Department of Central Management Services shall
7 adopt rules and implement procedures to verify that any person
8 seeking a preference under this Section provides documentation
9 or executes any consents or other documents required by the
10 Department of Central Management Services or any other State
11 Department or agency to enable that Department or agency to
12 verify that the person is entitled to the preference.

13 Section 10. The Department of Commerce and Economic
14 Opportunity Law of the Civil Administrative Code of Illinois is
15 amended by adding Section 605-416 as follows:

16 (20 ILCS 605/605-416 new)

17 Sec. 605-416. Persons unjustly imprisoned; job training
18 and continuing education. The Department shall establish an
19 individualized job training and continuing education program
20 for each person if he or she has been discharged from a prison
21 of this State; and if he or she has been wrongfully accused of
22 a crime for which he or she was imprisoned; and if either a
23 court of competent jurisdiction entered a declaratory judgment
24 finding that the accused was innocent of all offenses for which

1 he or she was incarcerated or the person received a pardon from
2 the Governor stating that such pardon is issued on the ground
3 of innocence of the crime for he or she was imprisoned.

4 Section 15. The Court of Claims Act is amended by changing
5 Sections 8, 11, 22, and 24 and by adding Section 24.5 as
6 follows:

7 (705 ILCS 505/8) (from Ch. 37, par. 439.8)

8 Sec. 8. Court of Claims jurisdiction. The court shall have
9 exclusive jurisdiction to hear and determine the following
10 matters:

11 (a) All claims against the State founded upon any law of
12 the State of Illinois or upon any regulation adopted thereunder
13 by an executive or administrative officer or agency; provided,
14 however, the court shall not have jurisdiction (i) to hear or
15 determine claims arising under the Workers' Compensation Act or
16 the Workers' Occupational Diseases Act, or claims for expenses
17 in civil litigation, or (ii) to review administrative decisions
18 for which a statute provides that review shall be in the
19 circuit or appellate court.

20 (b) All claims against the State founded upon any contract
21 entered into with the State of Illinois.

22 (c) All claims against the State for time unjustly served
23 in prisons of this State when ~~where~~ the person ~~persons~~
24 imprisoned (i) was wrongfully accused of the crime for which he

1 or she was imprisoned and a court of competent jurisdiction
2 entered a declaratory judgment finding that the accused was
3 innocent of all offenses for which he or she was incarcerated
4 or (ii) the accused received shall receive a pardon from the
5 governor stating that such pardon is issued on the ground of
6 innocence of the crime for which they were imprisoned;
7 provided, the amount of the award is at the discretion of the
8 court; and provided, the court shall make no award in excess of
9 the following amounts: for imprisonment of 5 years or less, not
10 more than \$85,350 ~~\$15,000~~; for imprisonment of 14 years or less
11 but over 5 years, not more than \$170,000 ~~\$30,000~~; for
12 imprisonment of over 14 years, not more than \$199,150 ~~\$35,000~~;
13 and provided further, the court shall fix attorney's fees not
14 to exceed 25% of the award granted. On or after the effective
15 date of this amendatory Act of the 95th General Assembly, On
16 ~~December 31, 1996, the court shall make a one time adjustment~~
17 ~~in the maximum awards authorized by this subsection (c), to~~
18 ~~reflect the increase in the cost of living from the year in~~
19 ~~which these maximum awards were last adjusted until 1996, but~~
20 ~~with no annual increment exceeding 5%. Thereafter, the court~~
21 shall annually adjust the maximum awards authorized by this
22 subsection (c) to reflect the increase, if any, in the Consumer
23 Price Index For All Urban Consumers for the previous calendar
24 year, as determined by the United States Department of Labor,
25 except that no annual increment may exceed 5%. For ~~both~~ the
26 ~~one time adjustment and the subsequent~~ annual adjustments, if

1 the Consumer Price Index decreases during a calendar year,
2 there shall be no adjustment for that calendar year. The
3 changes made by this amendatory Act of the 95th General
4 Assembly apply to all claims pending on or filed on or after
5 the effective date. ~~The changes made by Public Act 89-689 apply~~
6 ~~to all claims filed on or after January 1, 1995 that are~~
7 ~~pending on December 31, 1996 and all claims filed on or after~~
8 ~~December 31, 1996.~~

9 (d) All claims against the State for damages in cases
10 sounding in tort, if a like cause of action would lie against a
11 private person or corporation in a civil suit, and all like
12 claims sounding in tort against the Medical Center Commission,
13 the Board of Trustees of the University of Illinois, the Board
14 of Trustees of Southern Illinois University, the Board of
15 Trustees of Chicago State University, the Board of Trustees of
16 Eastern Illinois University, the Board of Trustees of Governors
17 State University, the Board of Trustees of Illinois State
18 University, the Board of Trustees of Northeastern Illinois
19 University, the Board of Trustees of Northern Illinois
20 University, the Board of Trustees of Western Illinois
21 University, or the Board of Trustees of the Illinois
22 Mathematics and Science Academy; provided, that an award for
23 damages in a case sounding in tort, other than certain cases
24 involving the operation of a State vehicle described in this
25 paragraph, shall not exceed the sum of \$100,000 to or for the
26 benefit of any claimant. The \$100,000 limit prescribed by this

1 Section does not apply to an award of damages in any case
2 sounding in tort arising out of the operation by a State
3 employee of a vehicle owned, leased or controlled by the State.
4 The defense that the State or the Medical Center Commission or
5 the Board of Trustees of the University of Illinois, the Board
6 of Trustees of Southern Illinois University, the Board of
7 Trustees of Chicago State University, the Board of Trustees of
8 Eastern Illinois University, the Board of Trustees of Governors
9 State University, the Board of Trustees of Illinois State
10 University, the Board of Trustees of Northeastern Illinois
11 University, the Board of Trustees of Northern Illinois
12 University, the Board of Trustees of Western Illinois
13 University, or the Board of Trustees of the Illinois
14 Mathematics and Science Academy is not liable for the
15 negligence of its officers, agents, and employees in the course
16 of their employment is not applicable to the hearing and
17 determination of such claims.

18 (e) All claims for recoupment made by the State of Illinois
19 against any claimant.

20 (f) All claims pursuant to the Line of Duty Compensation
21 Act.

22 (g) All claims filed pursuant to the Crime Victims
23 Compensation Act.

24 (h) All claims pursuant to the Illinois National
25 Guardsman's Compensation Act.

26 (i) All claims authorized by subsection (a) of Section

1 10-55 of the Illinois Administrative Procedure Act for the
2 expenses incurred by a party in a contested case on the
3 administrative level.

4 (Source: P.A. 93-1047, eff. 10-18-04.)

5 (705 ILCS 505/11) (from Ch. 37, par. 439.11)

6 Sec. 11. Filing claims.

7 (a) Except as otherwise provided in subsection (b) of this
8 Section and subsection (3) of Section 24, the claimant shall in
9 all cases set forth fully in his petition the claim, the action
10 thereon, if any, on behalf of the State, what persons are
11 owners thereof or interested therein, when and upon what
12 consideration such persons became so interested; that no
13 assignment or transfer of the claim or any part thereof or
14 interest therein has been made, except as stated in the
15 petition; that the claimant is justly entitled to the amount
16 therein claimed from the State of Illinois, after allowing all
17 just credits; and that claimant believes the facts stated in
18 the petition to be true. The petition shall be verified, as to
19 statements of facts, by the affidavit of the claimant, his
20 agent, or attorney.

21 (b) Whenever a person who has served a term of imprisonment
22 and has obtained a declaratory judgment finding that he or she
23 was innocent of all offenses for which he or she was
24 incarcerated, the clerk of the court of competent jurisdiction
25 shall transmit this information to the clerk of the Court of

1 Claims. Whenever a person who has served a term of imprisonment
2 and has received a pardon by the Governor stating that such
3 pardon was issued on the ground of innocence of the crime for
4 which he or she was imprisoned, the Governor shall transmit
5 this information to the clerk of the Court of Claims. The clerk
6 of the Court of Claims shall immediately docket the case for
7 consideration by the Court of Claims. The Court of Claims shall
8 hear the case and render a decision within 90 days after its
9 docketing. The transmission by the clerk of the court of
10 competent jurisdiction or by the Governor of the information
11 described in this subsection (b) to the clerk of the Court of
12 Claims is conclusive evidence of the validity of the claim.

13 (Source: Laws 1945, p. 660.)

14 (705 ILCS 505/22) (from Ch. 37, par. 439.22)

15 Sec. 22. Every claim cognizable by the Court and not
16 otherwise sooner barred by law shall be forever barred from
17 prosecution therein unless it is filed with the Clerk of the
18 Court within the time set forth as follows:

19 (a) All claims arising out of a contract must be filed
20 within 5 years after it first accrues, saving to minors, and
21 persons under legal disability at the time the claim accrues,
22 in which cases the claim must be filed within 5 years from the
23 time the disability ceases.

24 (b) All claims cognizable against the State by vendors of
25 goods or services under "The Illinois Public Aid Code",

1 approved April 11, 1967, as amended, must file within one year
2 after the accrual of the cause of action, as provided in
3 Section 11-13 of that Code.

4 (c) All claims arising under paragraph (c) of Section 8 of
5 this Act must be automatically heard by the court ~~filed~~ within
6 120 days ~~2 years~~ after the person unjustly imprisoned ~~asserting~~
7 ~~such claim~~ is discharged from prison without the person
8 unjustly imprisoned being required to file a petition under
9 Section 11 of this Act ~~, or is granted a pardon by the~~
10 ~~Governor, whichever occurs later, except as otherwise provided~~
11 ~~by the Crime Victims Compensation Act.~~

12 (d) All claims arising under paragraph (f) of Section 8 of
13 this Act must be filed within one year of the date of the death
14 of the law enforcement officer or fireman as provided in
15 Section 3 of the "Law Enforcement Officers and Firemen
16 Compensation Act", approved September 30, 1969, as amended.

17 (e) All claims arising under paragraph (h) of Section 8 of
18 this Act must be filed within one year of the date of the death
19 of the guardsman or militiaman as provided in Section 3 of the
20 "Illinois National Guardsman's and Naval Militiaman's
21 Compensation Act", approved August 12, 1971, as amended.

22 (f) All claims arising under paragraph (g) of Section 8 of
23 this Act must be filed within one year of the crime on which a
24 claim is based as provided in Section 6.1 of the "Crime Victims
25 Compensation Act", approved August 23, 1973, as amended.

26 (g) All claims arising from the Comptroller's refusal to

1 issue a replacement warrant pursuant to Section 10.10 of the
2 State Comptroller Act must be filed within 5 years after the
3 issue date of such warrant.

4 (h) All other claims must be filed within 2 years after it
5 first accrues, saving to minors, and persons under legal
6 disability at the time the claim accrues, in which case the
7 claim must be filed within 2 years from the time the disability
8 ceases.

9 (i) The changes made by this amendatory Act of 1989 shall
10 apply to all warrants issued within the 5 year period preceding
11 the effective date of this amendatory Act of 1989.

12 (j) All time limitations established under this Act and the
13 rules promulgated under this Act shall be binding and
14 jurisdictional, except upon extension authorized by law or rule
15 and granted pursuant to a motion timely filed.

16 (Source: P.A. 86-458.)

17 (705 ILCS 505/24) (from Ch. 37, par. 439.24)

18 Sec. 24. Payment of awards.

19 (1) From funds appropriated by the General Assembly for the
20 purposes of this Section the Court may direct immediate payment
21 of:

22 (a) All claims arising solely as a result of the
23 lapsing of an appropriation out of which the obligation
24 could have been paid.

25 (b) All claims pursuant to the "Law Enforcement

1 Officers and Firemen Compensation Act", approved September
2 30, 1969, as amended.

3 (c) All claims pursuant to the "Illinois National
4 Guardsman's and Naval Militiaman's Compensation Act",
5 approved August 12, 1971, as amended.

6 (d) All claims pursuant to the "Crime Victims
7 Compensation Act", approved August 23, 1973, as amended.

8 (e) All other claims wherein the amount of the award of
9 the Court is less than \$5,000.

10 (2) The court may, from funds specifically appropriated
11 from the General Revenue Fund for this purpose, direct the
12 payment of awards less than \$50,000 solely as a result of the
13 lapsing of an appropriation originally made from any fund held
14 by the State Treasurer. For any such award paid from the
15 General Revenue Fund, the court shall thereafter seek an
16 appropriation from the fund from which the liability originally
17 accrued in reimbursement of the General Revenue Fund.

18 (3) From funds appropriated by the General Assembly for the
19 purposes of paying claims under paragraph (c) of Section 8, the
20 court must direct payment of each claim and the payment must be
21 received by the claimant within 60 days after the date that the
22 funds are appropriated for that purpose.

23 (Source: P.A. 92-357, eff. 8-15-01.)

24 (705 ILCS 505/24.5 new)

25 Sec. 24.5. Applicability. This amendatory Act of the 95th

1 General Assembly shall apply to causes of action filed on or
2 after its effective date.

3 Section 20. The Code of Civil Procedure is amended by
4 adding Section 2-702 as follows:

5 (735 ILCS 5/2-702 new)

6 Sec. 2-702. Action for declaratory judgment that the
7 plaintiff was innocent of all offenses for which he or she was
8 incarcerated.

9 (a) The General Assembly finds and declares that innocent
10 persons who have been wrongly convicted of crimes in Illinois
11 and subsequently imprisoned have been frustrated in seeking
12 legal redress due to a variety of substantive and technical
13 obstacles in the law and that such persons should have an
14 available avenue to obtain a finding of innocence so that they
15 may obtain relief through an action in the Court of Claims. It
16 is the intent of the General Assembly that the court, in
17 exercising its discretion as permitted by law regarding the
18 weight and admissibility of evidence submitted pursuant to this
19 Section, shall, in the interest of justice, give due
20 consideration to difficulties of proof caused by the passage of
21 time, the death or unavailability of witnesses, the destruction
22 of evidence or other factors not caused by such persons or
23 those acting on their behalf.

24 (b) Any person convicted and subsequently imprisoned for

1 one or more felonies by the State of Illinois which he or she
2 did not commit may, under the conditions hereinafter provided,
3 file an action for declaratory judgment in the Circuit Court of
4 the County in which the person was convicted. The action shall
5 name the prosecuting authority as defendant and shall request a
6 declaratory judgment that the plaintiff was innocent of all
7 offenses for which he or she was incarcerated.

8 (c) In order to present the claim for declaratory judgment
9 of an unjust conviction and imprisonment, the plaintiff must
10 establish by satisfactory evidence that:

11 (1) he or she has been convicted of one or more
12 felonies by the State of Illinois and subsequently
13 sentenced to a term of imprisonment, and has served all or
14 any part of the sentence; and

15 (2) his or her judgment of conviction was reversed or
16 vacated, and the indictment or information dismissed or, if
17 a new trial was ordered, either he or she was found not
18 guilty at the new trial or he or she was not retried and
19 the indictment or information dismissed; or the statute, or
20 application thereof, on which the indictment or
21 information was based violated the Constitution of the
22 United States or the State of Illinois; and

23 (3) his or her claim is not time barred by the
24 provisions of subsection (g) of this Section.

25 (d) The complaint shall state facts in sufficient detail to
26 permit the court to find that the plaintiff is likely to

1 succeed at trial in proving that the plaintiff is innocent of
2 the offenses charged in the indictment or information or his or
3 her acts or omissions charged in the indictment or information
4 did not constitute a felony or misdemeanor against the State of
5 Illinois, and the plaintiff did not by his or her own conduct
6 voluntarily cause or bring about his or her conviction. The
7 complaint shall be verified by the plaintiff.

8 (e) In order to obtain a judgment in his or her favor, the
9 plaintiff must prove by a preponderance of evidence that:

10 (1) the plaintiff was convicted of one or more felonies
11 by the State of Illinois and subsequently sentenced to a
12 term of imprisonment, and has served all or any part of the
13 sentence;

14 (2) (A) the judgment of conviction was reversed or
15 vacated, and the indictment or information dismissed or, if
16 a new trial was ordered, either the plaintiff was found not
17 guilty at the new trial or the plaintiff was not retried
18 and the indictment or information dismissed; or (B) the
19 statute, or application thereof, on which the indictment or
20 information was based violated the Constitution of the
21 United States or the State of Illinois;

22 (3) the plaintiff is innocent of the offenses charged
23 in the indictment or information or his or her acts or
24 omissions charged in the indictment or information did not
25 constitute a felony or misdemeanor against the State; and

26 (4) the plaintiff did not by his or her own conduct

1 voluntarily cause or bring about his or her conviction.

2 (f) If the court finds that the plaintiff is entitled to a
3 judgment, it shall enter a declaratory judgment finding that
4 the plaintiff was innocent of all offenses for which he or she
5 was incarcerated.

6 (g) Any person seeking a declaratory judgment under this
7 Section based on the dismissal of an indictment or information
8 or acquittal that occurred before the effective date of this
9 amendatory Act of the 95th General Assembly shall file his or
10 her complaint within 2 years after the effective date of this
11 amendatory Act of the 95th General Assembly. Any person seeking
12 a declaratory judgment under this Section based on the
13 dismissal of an indictment or information or acquittal that
14 occurred on or after the effective date of this amendatory Act
15 of the 95th General Assembly shall file his or her complaint
16 within 2 years after the dismissal.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.".